

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of) **MAIL STOP AMENDMENT**
Atsushi Iwasa et al.) Group Art Unit: 3751
Application No.: 10/569,481) Examiner: Huyen D.Le
Filed: March 5, 2006) Confirmation No.: 3429
For: APPLICATOR)
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RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In the October 6, 2009 Office Action, the Examiner requires, under 35 U.S.C. § 121, election of claims directed to one of the following species:

Species I illustrated in Figs. 1-3.

Species II depicted in Fig. 4.

Species III shown in Fig. 5.

Species IV illustrated in Figs. 6-11.

Species V depicted in Figs. 12-13.

Species VI shown in Fig. 14.

Applicants hereby elect, with traverse, Species III shown in Fig. 5. At least Claims 1-13 are readable on the elected species.

The election of Species III is made with traverse for a number of reasons.

First, this application was filed as a U.S. national stage application under 35 U.S.C. § 371. Accordingly, restriction practice under 35 U.S.C. § 121 is not proper in this

application. Rather, the unity of invention standard applies to the claims of this application. The claims here satisfy the unity of invention standard. Indeed, the claims were deemed to satisfy the unity of invention standard in the international phase of this application.

Second, even assuming for the sake of discussion that this application is not U.S. national stage application under 35 U.S.C. § 371, an election of species requirement would only be proper in requiring an election from among mutually exclusive species. Here, the identified species are not all mutually exclusive. For example, it is clear from a study of this application's specification that the fine indentations and projections 22 illustrated in Figs. 6 through 11 and the impact absorbing means 70 illustrated in Figs. 12 through 14 can be included in the same embodiment. Accordingly, the Examiner has not identified mutually exclusive species.

The election of species requirement is also traversed because it is believed that all of the claims of this application can be examined at the same time without serious burden. In one respect, the search required for the non-elected species would be substantially coextensive with the search associated with the elected species. In addition, examining all of the claims of this application at the same time would only involve consideration of six additional claims.

In light of the foregoing, withdrawal of the election of species requirement and examination of all of the claims of this application, including Claims 1-13 directed to the elected species, are respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful

in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: November 6, 2009

By: /Peter T. deVore/
Peter T. deVore
Registration No. 60361

Customer No. 21839
703 836 6620